

REMARKS

This application has been carefully reviewed in light of the Office Action mailed July 7, 2006 ("Office Action"). Claims 1-35 and 37-46 are pending. The Office Action rejects Claims 1-35 and 37-46. Applicant has amended Claims 1, 13, 24, and 37. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections Under 35 U.S.C. § 102

The Office Action rejects Claims 1-35 and 37-46 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,771,290 to Hoyle ("*Hoyle*"). Applicant respectfully traverses these rejections.

Independent Claim 1 is allowable at least because *Hoyle* fails to disclose, expressly or inherently, "in response to requesting downloading of the selected file, initiating downloading of the selected file and automatically determining the identity of, and initiating downloading of, the at least one associated file before any executing of the selected file." The Office Action relies on the passage at col. 5, line 5 - col. 8, line 50 of *Hoyle* to disclose a prior version of this limitation. See Office Action, page 3. Whether or not this is correct, the passage fails to disclose, expressly or inherently, "in response to requesting downloading of the selected file, initiating downloading of the selected file and automatically determining the identity of, and initiating downloading of, the at least one associated file before any executing of the selected file." For example, the Examiner contends that a selected file is either a program module or a software application, and an associated file is either an "individual file or resource or an user-selectable link of an updated version identifier or software update." See Office Action, Pages 2-3. However, the passage of *Hoyle* expressly discloses executing the alleged selected file (program module) in order to download the alleged associated file (updated version identifier):

Some or all of the program modules have at least one version identifier associated with them. One of the program modules is operable upon execution to access the stored version identifier(s) and at least one updated version identifier from a server via a network, including a global public network such as the Internet. These updated version identifier(s) represent updated program modules accessible from a server via the network. This program module is further operable to download one or more updated program modules when the stored version identifier and the updated version identifier are different.

See Hoyle, col. 6, lines 2-12 (emphasis added); *see also Hoyle*, col. 7, lines 12-16 (stating “providing the user with download access to computer software that, when run on a computer, displays advertising content, records computer usage information concerning the user’s utilization of the computer, and periodically requests additional advertising content.”) (emphasis added).

Because the passage expressly discloses downloading the updated version identifiers after the program module is executed, the alleged associated files are not downloaded prior to executing the alleged selected file. Thus, the passage fails to disclose, expressly or inherently, “in response to requesting downloading of the selected file, initiating downloading of the selected file and automatically determining the identity of, and initiating downloading of, the at least one associated file before any executing of the selected file.” Therefore, *Hoyle* fails to disclose, expressly or inherently, the limitations of Independent Claim 1, as amended. For at least this reason, Independent Claim 1, as amended, is allowable, as are Claims 2-12 that depend therefrom. For analogous reasons, Independent Claims 13, 24, and 37, as amended, are allowable, as are Claims 14-23, 25-35, and 37-46, respectively, that depend therefrom.

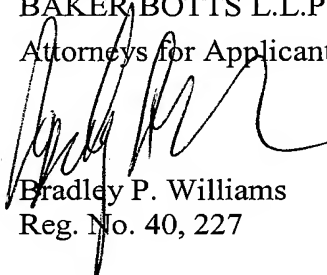
CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicant respectfully requests full allowance of all pending claims.

If the Examiner believes that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact the undersigned Attorney for Applicant at the Examiner's convenience.

Applicant believes that no fee is due. However, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

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